

Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY BONN

INFO AMEMBASSY JAKARTA

AMEMBASSY MANILA

AMEMBASSY LONDON

AMEMBASSY TOKYO

AMEMBASSY PARIS

AMEMBASSY MOSCOW

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C O R R E C T E D C O P Y (PARA 5 SUB-PARA B(3) 1ST TWO
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E.O. 11652: GDS

TAGS: PBOR

SUBJECT: LOS; ARCHIPELAGO CONSULTATION

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1. DURING RECENT LAW OF THE SEA CONSULTATIONS WITH FRG OFFICIALS, JOHN NORTON MOORE, CHAIRMAN NSC INTERAGENCY TASK FORCE ON LAW OF THE SEA, POINTED OUT U.S. EFFORTS TO NEGOTIATE SETTLEMENT OF ARCHIPELAGO ISSUE WITH INDONESIA AND SAID HE WOULD SEND THEM A COPY OF THE RELEVANT TEXT GIVEN TO INDONESIA. THIS WAS REFERENCE TO CONSULTATIONS WITH GOI ON BASIS OF SPECIFIC U.S. PROPOSALS ON ARCHIPELAGO ISSUE AND U.S. OBLIGATION TO CONSULT WITH OTHER MARITIME STATES. EMBASSY BONN SHOULD CONVEY TO AMBASSADOR KNOKE ATTACHED U.S. PAPER GIVEN TO INDONESIA, EXPLAIN POINTS MADE IN THIS CABLE, REQUEST FRG VIEWS ON U.S. PROPOSALS AND INDICATE THE IMPORTANCE OF HOLDING THE INITIATIVE CLOSELY. AS WE EXPECT FURTHER CONSULTATIONS WITH ARCHIPELAGO STATES IN COMING WEEKS WE WOULD APPRECIATE FRG VIEWS SOONEST, PREFERABLY BY 15 MAY. POST SHOULD DRAW ON FOLLOWING POINTS.

2. U.S. SENT DELEGATION LED BY JOHN NORTON MOORE TO MEET WITH INDONESIANS IN JAKARTA ON MARCH 25 AND 26. DISCUSSIONS WERE CORDIAL AND EACH SIDE APPRECIATED NECESSITY TO ACCOMMODATE ARCHIPELAGIC AND NAVIGATIONAL INTERESTS.

3. IT WAS AGREED THAT FORUM FOR ACHIEVING MUTUAL GOALS SHOULD BE COMPREHENSIVE LOS TREATY GIVING LEGAL AFFIRMATION TO ARCHIPELAGIC PRINCIPLE AND LEGAL PROTECTION FOR VITAL CARACAS CONFERENCE MADE EARLY UNDERSTANDING ESSENTIAL. IF AT ALL POSSIBLE TREATY TEXTS SHOULD BE AGREED BEFORE START OF CARACAS CONFERENCE.

4. UNITED STATES COULD SUPPORT ARCHIPELAGIC PRINCIPLE IF THERE WERE (1) REASONABLE LIMITATION OF ARCHIPELAGIC PRINCIPLE TO ISLAND NATIONS PER OBJECTIVE DEFINITIONAL CRITERIA; (2) FULL PROTECTION OF TRANSIT THROUGH AND OVER ARCHIPELAGO, AND (3) INDONESIAN SUPPORT FOR UNIMPEDED TRANSIT OF STRAITS USED FOR INTERNATIONAL NAVIGATION.

5. EMBASSY SHOULD PASS TO FRG FOLLOWING TEXTS WHICH U. S. LOS TEAM PROVIDED TO GOI.
BEGIN TEXT

A) ELEMENTS CONCERNING DEFINITION OF ARCHIPELAGIC STATE
(1) AN ARCHIPELAGIC ISLAND STATE WHOSE COMPONENT ISLANDS
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AND OTHER NATURAL FEATURES FORM A SINGLE INTRINSIC GEOGRAPHICAL, CULTURAL, ECONOMIC, AND POLITICAL ENTITY MAY DRAW ARCHIPELAGIC LINES CONNECTING OUTER POINTS OF THE OUTERMOST ISLANDS OF THE ARCHIPELAGO PROVIDED THAT SUCH LINES ENCLOSING THE ENTIRE ISLAND GROUP DO NOT ENCLOSE AN AREA OF WATER WHICH WILL RESULT IN A WATER-TO-LAND RATIO OF GREATER THAN 5:1 AND PROVIDED THAT THE MAXIMUM LENGTH OF ANY SUCH LINES SHALL NOT EXCEED 80 NAUTICAL MILES.

(2) WATERS WITHIN ARCHIPELAGIC LINES SHALL BE DESIGNATED ARCHIPELAGIC WATERS.

(3) FOR THE PURPOSE OF COMPUTING THE WATER-TO-LAND RATIO IN PARAGRAPH 1. LAND AREAS SHALL INCLUDE WATERS WITHIN REEFS AND LAGOONS OF ATOLLS.

B) GUARANTEES TO THE ARCHIPELAGIC STATE COVERING ARCHIPELAGIC TRANSIT.

(1) THE TREATY WOULD SPECIFY THAT THE RIGHT OF NAVIGATION IS A RIGHT OF TRANSIT THROUGH AND OVER THE ARCHIPELAGO-- THAT IS, A RIGHT OF UNIMPEDED ARCHIPELAGIC TRANSIT OF THE ARCHIPELAGO--IN THE NORMAL MODE FOR VESSELS AND AIRCRAFT.

(2) THE TREATY WOULD SPECIFY THAT THE TRANSITING VESSEL OR AIRCRAFT SHOULD TRANSIT THE ARCHIPELAGO WITHOUT UNREASONABLE DELAY.

VIOLATION OF THE CHARTER OF THE UNITED NATIONS AGAINST THE TERRITORIAL INTEGRITY OR POLITICAL INDEPENDENCE OF THE ARCHIPELAGO STATE.

(4) THE TREATY COULD PROVIDE THAT ARCHIPELAGIC TRANSIT WOULD TAKE PLACE IN DESIGNATED PASSAGE AREAS. SUCH TRANSIT AREAS WOULD:

(A) INCLUDE ALL NORMAL TRANSIT ROUTES THROUGH ARCHIPELAGIC WATERS, AND WITHIN SUCH ROUTES ALL NORMAL NAVIGATIONAL CHANNELS, AND

(B) INCLUDE AN AREA WHICH AT ALL POINTS IS NOT LESS THAN THE NARROWER OF:

(I) 80 PERCENT OF THE AREA BETWEEN THE NEAREST POINTS OF LAND ON THE MAIN ISLAND; I.E., NOT DRYING ROCKS OR SHOALS,
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OR

(II) 100 NAUTICAL MILES.

(5) THE TREATY WOULD PROVIDE THAT THE ARCHIPELAGIC STATE COULD REQUIRE NOTIFICATION FOR ANY VESSEL OR AIRCRAFT DEPARTING FROM THESE TRANSIT AREAS BECAUSE OF FORCE MAJEURE, DISTRESS OR OTHER CIRCUMSTANCES. (SOME PROVISION WOULD BE MADE TO PROTECT SHIPPING (E.G., SHALLOW DRAUGHT VESSELS) OUTSIDE TRANSIT AREAS.)

(6) THE TREATY WOULD PROVIDE THAT THE ARCHIPELAGIC STATE MAY, WITHOUT DISCRIMINATION AMONG SHIPS, TEMPORARILY SUSPEND NAVIGATION IN CERTAIN AREAS OUTSIDE ARCHIPELAGIC TRANSIT AREAS, IF SUCH SUSPENSION IS NECESSARY TO ITS SECURITY. SUCH SUSPENSION WOULD BE DULY PUBLISHED.

NOTE: THIS IS AN EFFORT TO SET OUT GENERAL PRINCIPLES GUARANTEEING A BALANCE BETWEEN THE INTERESTS OF ARCHIPELAGO STATES AND THE INTERESTS OF TRANSITING STATES. THESE PRINCIPLES WOULD BE REFLECTED IN A LAW OF THE SEA TREATY AND DO NOT NECESSARILY STATE APPROPRIATE TREATY PROVISIONS AS WRITTEN. THE PRECISE METHOD OF DELINEATION OF TRANSIT AREAS UTILIZING THESE PRINCIPLES WOULD BE DETERMINED AFTER FURTHER CONSULTATIONS.

6. INDONESIANS WERE GENERALLY POSITIVE ABOUT SUGGESTED U.S. SOLUTIONS WHILE STRESSING NEED FOR CONSULTATIONS WITH OTHER ARCHIPELAGIC CLAIMANTS BEFORE MAKING COMMITMENTS. IT WAS AGREED THAT INDONESIANS WOULD APPROACH PHILIPPINES AND FIJI FOR REACTIONS WHILE U.S. WOULD INFORM OTHER MARITIME STATES. EACH AGREED TO HOLD EARLY CONSULTATIONS AND TO EXCHANGE INFORMATION ON OUTCOME OF CONSULTATIONS.

7. INDONESIANS HAVE SINCE HELD TALKS WITH GOP. WE HAVE OUTLINED U.S. PROPOSALS TO SEVERAL MARITIME STATES INCLUDING USSR, JAPAN, AUSTRALIA, UK, AND FRANCE. RUSH

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